

## STATEMENT OF EMERGENCY


301 KAR 2:225E

(1) This emergency administrative regulation establishes season dates, limits, shooting hours and other requirements for hunting migratory birds.

(2) Waterfowl hunting season frameworks are set annually by the U.S. Fish and Wildlife Service. Under federal law, states that wish to establish migratory bird hunting seasons shall do so within the federal frameworks. Development of the federal regulations involves consideration of harvest and population status data, coordination with state wildlife agencies, and public involvement. States must supply season selections for publication in the Federal Register less than 8 weeks after the final frameworks for migratory bird hunting regulations are published in the federal register. Once Kentucky's season selections are published in the Federal Register, there is no opportunity for revisions. An ordinary administrative regulation will not suffice because the time provided by the USFWS is not adequate for the normal regulatory process.

(3) This emergency regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

  
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Gregory K. Johnson, Commissioner  
Department of Fish and Wildlife Resources

  
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Matthew G. Bevin, Governor  
Commonwealth of Kentucky

1 TOURISM, ARTS, AND HERITAGE CABINET

2 Department of Fish and Wildlife Resources

3 (Emergency Amendment)

4 301 KAR 2:225. Dove, wood duck, teal, and other migratory game bird hunting.

5 RELATES TO: KRS 150.330, 150.340, 150.603

6 STATUTORY AUTHORITY: KRS 150.025(1), 150.360, 150.600(1), 50 C.F.R. 20, 21

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department  
8 to promulgate administrative regulations to establish open seasons for the taking of  
9 wildlife, to regulate bag limits and methods of take, and to make these requirements apply  
10 to a limited area. KRS 150.360 authorizes the department to restrict methods for the  
11 taking of wildlife. KRS 150.600(1) authorizes the department to regulate the taking of  
12 waterfowl on public and private land. This administrative regulation establishes the  
13 requirements for the taking of migratory game birds within reasonable limits and within  
14 the frameworks established by 50 C.F.R. Parts 20 and 21.

15 Section 1. Definitions. (1) "Dove" means mourning dove or white-winged dove.

16 (2) "Migratory game bird" means mourning dove, white-winged dove, wood duck, teal,  
17 Canada goose, common gallinule, woodcock, snipe, purple gallinule, Virginia rail, or sora  
18 rail.

(3) "Teal" means green-winged teal, blue-winged teal, or cinnamon teal.

(4) "Wildlife Management Area" or "WMA" means a tract of land:

(a) Controlled by the department through ownership, lease, license, or cooperative agreement; and

(b) That has "Wildlife Management Area" or "WMA" as part of its official name.

Section 2. Season Dates. (1) A person shall not hunt a migratory game bird except during a season established in this administrative regulation.

(2) The seasons established in paragraphs (a) through (g) of this subsection shall apply to migratory bird hunting:

(a) Dove, beginning on:

1. September 1 for fifty-six (56) consecutive days;

2. Thanksgiving Day for eleven (11) consecutive days; and

3. The Saturday before Christmas for twenty-three (23) consecutive days;

(b) Woodcock, beginning on the fourth Saturday in October for forty-seven (47) consecutive days, except that the season shall be closed during the first two (2) days of modern gun deer season, as established in 301 KAR 2:172;

(c) Snipe, beginning on:

1. The third Wednesday in September for forty (40) consecutive days; and

2. Thanksgiving Day for sixty-seven (67) consecutive days;

(d) Wood duck, beginning on the third Saturday in September for five (5) consecutive

1 days;

2 (e) Teal, beginning on the third Saturday in September for nine (9) consecutive days;

3 (f) Virginia rail, sora rail, common gallinule, and purple gallinule, beginning on  
4 September 1 for seventy (70) consecutive days; and

5 (g) Canada goose, beginning September 16 for fifteen (15) consecutive days except  
6 that the following areas, as established in 301 KAR 2:224, shall be closed:

7 1. Public land in the Ballard Zone;

8 2. Public land in the West-Central Goose Zone; and

9 3. The Northeast Goose Zone.

10 Section 3. Bag and Possession Limits. (1) A person shall not exceed the limits  
11 established in paragraphs (a) through (h) of this subsection:

12 (a) Dove:

13 1. Daily limit of fifteen (15); and

14 2. Possession limit of forty-five (45).

15 (b) Eurasian collared dove: No limit, except that a hunter, if in the field or during  
16 transport, shall keep one (1) of the parts established in subparagraphs 1. and 2. of this  
17 paragraph attached to the bird:

18 1. The head; or

19 2. A fully-feathered wing.

20 (c) Woodcock:

1. Daily limit of three (3); and

2. Possession limit of nine (9).

(d) Snipe:

1. Daily limit of eight (8); and

2. Possession limit of twenty-four (24).

(e) Virginia and sora rail, singly or in aggregate:

1. Daily limit of twenty-five (25); and

2. Possession limit of seventy-five (75).

(f) Common and purple gallinule, singly or in aggregate:

1. Daily limit of three (3); and

2. Possession limit of nine (9).

(g) Wood duck and teal:

1. Daily limit of six (6), which shall not include more than two (2) wood ducks; and

2. Possession limit of eighteen (18), which shall not include more than six (6) wood ducks.

(h) Canada goose:

1. Daily limit of five (5); and

2. Possession limit of fifteen (15).

(2) A hunter who possesses a migratory game bird other than a dove, in the field or during transport, shall keep one (1) of the parts established in paragraphs (a) and (b) of

1 this subsection attached to the bird:

2 (a) The head; or

3 (b) A fully-feathered wing.

4 Section 4. Shooting Hours. A person shall not take a migratory game bird except during  
5 the times established in this section. (1) If hunting dove on WMA land, a person shall hunt:

6 (a) Between 11 a.m. and sunset during the September and October portion of the  
7 season, as established in Section 2 of this administrative regulation; and

8 (b) Between one-half (1/2) hour before sunrise and sunset during the remainder of the  
9 season, as established in Section 2 of this administrative regulation.

10 (2) If hunting dove on private land, a person shall hunt:

11 (a) Between 11 a.m. and sunset on September 1; and

12 (b) Between one-half (1/2) hour before sunrise and sunset during the remainder of the  
13 season, as established in Section 2 of this administrative regulation.

14 (3) Other species listed in this administrative regulation shall be taken between one-  
15 half (1/2) hour before sunrise and sunset.

16 Section 5. Shot Requirements. A person hunting waterfowl shall not use or possess a  
17 shotgun shell:

18 (1) Longer than three and one-half (3 1/2) inches; or

19 (2) Containing:

20 (a) Lead shot;

(b) Shot not approved by the U.S. Fish and Wildlife Service pursuant to 50 C.F.R. Parts

20 and 21 for waterfowl hunting; or

(c) Shot larger than size "T".

Section 6. Hunter Orange. A person shall be exempt from hunter orange requirements pursuant to 301 KAR 2:132 and 2:172 if:

(1) Hunting waterfowl or doves; or

(2) Accompanying a person hunting waterfowl or doves.

Section 7. Exceptions to Statewide Migratory Game Bird Seasons on Specified Wildlife Management Areas. (1) A person shall not:

(a) Hunt wood duck or teal on an area closed to waterfowl hunting as established in 301 KAR 2:222;

(b) Hunt in an area marked by a sign as closed to hunting; or

(c) Enter an area marked by a sign as closed to the public.

(2) A person hunting migratory birds~~[dove]~~ on any of the following areas shall only use or possess nontoxic shot approved by the U.S. Fish and Wildlife Service pursuant to 50 C.F.R. Parts 20 and 21:

(a) Ballard WMA;

(b) Boatwright WMA;

(c) Doug Travis WMA;

(d) Duck Island WMA;

1 (e) Kaler Bottoms WMA;

2 (f) Kentucky River WMA;

3 (g) Ohio River Islands WMA;

4 (h) Sloughs WMA;

5 (i) South Shore WMA;

6 (j) Yatesville Lake WMA; and

7 (k) A WMA wetland management unit that is posted by sign.

8 (3) At Ballard WMA, a person shall not hunt:

9 (a) Dove, Virginia rail, sora rail, common gallinule, purple gallinule, or snipe after

10 October 13; or

11 (b) Woodcock.

12 (4) In the Swan Lake Unit of Boatwright WMA, a person shall not hunt:

13 (a) Dove, Virginia rail, sora rail, common gallinule, purple gallinule, or snipe after

14 October 13; or

15 (b) Woodcock.

16 (5) At Miller Welch - Central Kentucky WMA, a person shall not hunt:

17 (a) Dove or snipe after October 13; or

18 (b) Woodcock.

19 (6) At Grayson Lake WMA, a person shall not hunt:

20 (a) Within three-quarters (3/4) of a mile from the dam including the no-wake zone of

1 the dam site marina;

2 (b) On Deer Creek Fork; or

3 (c) On Camp Webb property or the state park, except for youths drawn for any  
4 department quota dove hunt on Camp Webb property in September.

5 (7) At Land Between the Lakes National Recreation Area, a person shall not hunt a  
6 migratory game bird between the last Saturday in September and November 30.

7 (8) At West Kentucky WMA, a person shall not hunt Canada geese during the  
8 September season.

9 (9) At Yatesville Lake, the following areas shall be closed to waterfowl hunting, unless  
10 authorized by Yatesville Lake State Park:

11 (a) The Greenbrier Creek embayment; and

12 (b) The lake area north of the mouth of the Greenbrier Creek embayment to the dam,  
13 including the island.

14 (10) At Robinson-Forest WMA, a person shall not hunt a migratory game bird on the  
15 main block of the WMA.

16 Section 8. Youth-Mentor Dove Hunts. (1) There shall be department-sponsored youth-  
17 mentor dove hunts on the first Saturday in September in which participants shall be  
18 selected by a random computerized drawing.

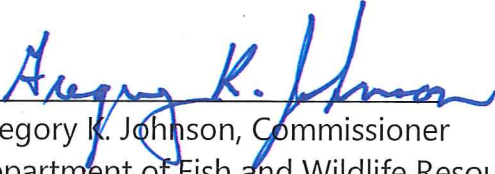
19 (2) A youth shall:

20 (a) Apply on the department's Web site at fw.ky.gov between the first Monday in

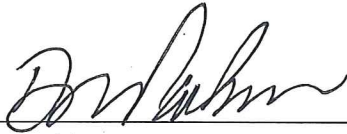
- 1 August and the third Friday in August; and
- 2 (b) Carry a department-provided selection notification on the day of the hunt.
- 3 (3) Each youth shall be accompanied by an adult who is eighteen (18) years or older.
- 4 (4) At the youth-mentor hunts:
- 5 (a) Each youth shall not be accompanied by more than one (1) adult;
- 6 (b) One (1) adult may accompany two (2) youths; and
- 7 (c) A maximum of two (2) shotguns are allowed per party.
- 8 (5) A person shall:
- 9 (a) Hunt within fifteen (15) feet of assigned location stake; and
- 10 (b) Not change locations unless another location has been vacated by the assigned
- 11 hunter.
- 12 (6) A person shall only discharge a firearm within fifteen (15) feet of assigned location
- 13 stake.
- 14 (7) A person shall leave their firearm at the assigned location stake when retrieving
- 15 birds.
- 16 (8) A hunter participating in youth-mentor hunts shall:
- 17 (a) Check-in prior to hunting;
- 18 (b) Not begin hunting before 2 p.m.;
- 19 (c) Cease hunting by 7p.m.;
- 20 (d) Exit the area by 7:30 p.m.; and

1      (e) Check out before exiting the field.

Approved by the Fish and Wildlife Commission



Gregory K. Johnson, Commissioner  
Department of Fish and Wildlife Resources



Don Parkinson, Secretary  
Tourism, Arts and Heritage Cabinet

Date: 5/8/17

## **REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT**

301 KAR 2:225E. Dove, wood duck, teal, and other migratory game bird hunting.

Contact Person: Mark Cramer

Email: mark.cramer@ky.gov

Phone: 502-564-3400

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes seasons and bag limits within federal migratory bird hunting frameworks established in 50 C.F.R. Parts 20 and 21 according to the U.S. Fish and Wildlife Service (USFWS). In addition, it establishes requirements for the hunting of migratory birds.

(b) The necessity of this administrative regulation: The necessity of this administrative regulation is to establish the 2017–2018 migratory bird seasons in accordance with the USFWS.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife and to regulate bag limits. KRS 150.360 authorizes the department to restrict methods for the taking of wildlife. KRS 150.600 authorizes the department to regulate the taking of waterfowl on public and private land. This administrative regulation establishes procedures for the taking of migratory game birds within reasonable limits and within the frameworks established by 50 C.F.R. Parts 20 and 21.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: By establishing the migratory bird hunting seasons and area specific requirements, this administrative regulation maintains and manages migratory game bird conservation efforts consistent with national and international management goals.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment will restrict the take of all migratory birds on WMAs with a wetland management focus to non-toxic shotshells. Previously only doves and waterfowl had been restricted. It also creates an online application process for youth hunters wishing to participate in department-sponsored youth-mentor dove hunts and establishes youth-mentor dove hunting requirements. All these changes are consistent with the long-term Mississippi Flyway and continental management efforts and are within the USFWS required frameworks.

(b) The necessity of the amendment to this administrative regulation: The deposition of lead shot in wetlands has been shown to poison waterfowl. With the high quality and availability of nontoxic shotshells, it is not necessary to continue the use of lead shotshells in these areas. The amendment also establishes a fair and equitable application process for youth-mentor dove hunts, and establishes reasonable hunting requirements.

(c) How the amendment conforms to the authorizing statutes: See (1)(c) above.

(d) How the amendment will assist in the effective administration of the statutes: See (1)(d) above.

(3) List the type and number of individuals, businesses, organizations or state and local governments affected by this administrative regulation: There are approximately 40,000 migratory bird hunters in Kentucky.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Rail, snipe, gallinule and woodcock hunters on the identified public lands will have to use steel or other nontoxic shot to hunt. Youth dove hunters will have to apply for a random online drawing versus a "first come first served" signup on youth-mentor hunts.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no additional costs to those identified in question (3).

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Youths will benefit from a fair and equitable random drawing process in order to participate in youth-mentor dove hunts.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: This administrative regulation change will result in no initial change in administrative cost to the Department.

(b) On a continuing basis: There will be no additional cost on a continuing basis.

(6) What is the source of the funding to be used for implementation and enforcement of this administrative regulation? The source of funding is the State Game and Fish Fund.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change if it is an amendment. It will not be necessary to increase any other fees or increase funding to implement this

administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No new fees will be established.

(9) TIERING: Is tiering applied? (Explain why tiering was or was not used) Tiering was not applied. The same requirements and limits apply to all migratory bird hunters.

## **FISCAL NOTE ON STATE OR LOCAL GOVERNMENT**

301 KAR 2:225E. Dove, wood duck, teal, and other migratory game bird hunting.

Contact Person: Mark Cramer

Email: mark.cramer@ky.gov

Phone number: (502) 564-3400

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Fish and Wildlife Resources Divisions of Wildlife and Law Enforcement will be impacted by this administrative regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife and to regulate bag limits. KRS 150.360 authorizes the department to restrict methods for the taking of wildlife. KRS 150.600 authorizes the department to regulate the taking of waterfowl on public and private land. This administrative regulation establishes procedures for the taking of migratory game birds within reasonable limits and within the frameworks established by 50 C.F.R. Parts 20 and 21.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated by this administrative regulation during the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue will be generated by this administrative regulation during subsequent years.

(c) How much will it cost to administer this program for the first year? There will be no additional costs to administer this program for the first year.

(d) How much will it cost to administer this program for subsequent years? There will be no additional costs to administer this program for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

## **FEDERAL MANDATE ANALYSIS COMPARISON**

1. Federal statute or regulation constituting the federal mandate. Wildlife and Fisheries, Federal Code of Regulations, 50 CFR Part 20, Migratory Bird Hunting; Part 21, Migratory Bird Permits.
2. State compliance standards. The Department of Fish and Wildlife Resources sets migratory birds seasons within the frameworks established by the U.S. Fish and Wildlife Service and published in 50 CFR Parts 20 and 21.
3. Minimum or uniform standards contained in the federal mandate. 50 CFR Part 20 contains season frameworks for the earliest opening and latest closing date, the maximum number of days a species is open to hunting, and daily bag and possession limits. 50 CFR Part 21 defines permits and the necessary requirements to hold and possess migratory game birds before, during and after periods open for hunting.
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? Yes.
5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The federal mandate defines the regulatory frameworks that a state may allow. States are permitted to be more restrictive but not more liberal in their respective regulations. State management objectives necessitate more restrictive regulations to protect local, regional and/or state populations of birds important to Kentucky's waterfowl hunters. The greatest wintering and migrating waterfowl concentrations are located on public lands managed by the Department. The Department imposes more restrictive hunting regulations on these lands in an effort to meet waterfowl management objectives while still providing quality hunting opportunity.